

**PATENT**

**Docket No. RSW920030135US1**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**INVENTOR:** **Kyle Brown**

**Examiner:** **M. Airapetian**

**Art Unit:** **3625**

**APPLICATION NO.** **10/687,714**

**Confirmation No.** **4641**

**FILED:** **October 17, 2003**

**CASE NO.** **RSW920030135US1**

**TITLE:** **METHOD, SYSTEM AND COMPUTER PROGRAM PRODUCT  
FOR LONG-TERM ON-LINE COMPARISON SHOPPING**

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Attention: Board of Patent Appeals and Interferences**

**APPELLANTS' BRIEF**

This Appeal Brief is in furtherance of the Notice of Appeal filed in this case on June 6, 2008. Since the Appeal Brief filing fee was paid with the filing of Applicant's prior Appeal Brief on February 22, 2007, Applicant believes no further filing fees are required. However, the Commissioner is hereby authorized to charge any fees that may be required, or any deficiencies that may arise, to Deposit Account No. 09-0461.

**1. REAL PARTY IN INTEREST**

The present application is assigned to International Business Machines Corporation, having its principal place of business at New Orchard Road, Armonk, New York 10504. Accordingly, International Business Machines Corporation is the real party in interest.

**2. RELATED APPEALS AND INTERFERENCES**

The Appellants, assignee, and the legal representatives of both are unaware of any other appeal or interference which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

**3. STATUS OF CLAIMS**

- A. Claims canceled: None
- B. Claims withdrawn from consideration but not canceled: None
- C. Claims pending: 1-27
- D. Claims allowed: none
- E. Claims rejected: 1-27
- F. Claims appealed: 1-27

Appealed Claims 1-27 as currently pending are attached as the Claims Appendix hereto.

**4. STATUS OF AMENDMENTS**

A Reply under 37 C.F.R. §1.111 was filed on July 27, 2006; claim amendments were made. In response, the Examiner issued a final Office Action on September 25, 2006. A Notice of Appeal was filed on December 22, 2006, and an Appeal Brief filed on February 22, 2007. In response, the Examiner issued a non-final Office Action on June 27, 2007. A Reply under 37 CFR §1.112 was filed on September 20, 2007; no claim amendments were made. In response, the Examiner issued the final Office Action appealed herein, on December 6, 2007.

**5. SUMMARY OF THE CLAIMED SUBJECT MATTER**

Claim 1: A computer-implemented method for identifying acquisition parameters for one or more commodities, comprising the steps of: identifying said one or more commodities using one or more searchable identification parameters (page 9, lines 7-13); defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored (page 10, lines 19-22); monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters (page 11, lines 6-15); and outputting results of said monitoring step (page 11, lines 16-21).

Claim 10: A computer-implemented system for identifying acquisition parameters for one or more commodities, comprising: means for identifying said one or more commodities using one or more searchable identification parameters (page 9, lines 7-13); means for defining a

monitoring duration during which acquisition parameters for said one or more commodities will be monitored (page 10, lines 19-22); means for monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters (page 11, lines 6-15); and means for outputting results of said monitoring step (page 11, lines 16-21).

Claim 19: A computer program product for identifying acquisition parameters for one or more commodities, the computer program product comprising a computer-readable storage medium having computer-readable program code embodied in the medium, the computer-readable program code comprising: computer-readable program code that identifies said one or more commodities using one or more searchable identification parameters (page 9, lines 7-13); computer-readable program code that defines a monitoring duration during which acquisition parameters for said one or more commodities will be monitored (page 10, lines 19-22); computer-readable program code that monitors a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters (page 11, lines 6-15); and computer-readable program code that outputs results of said monitoring step (page 11, lines 16-21).

The present invention is a method, system and computer product for automatically monitoring multiple publicly-searchable, network-accessible databases used to maintain information relating to web-based commerce sites(e.g., web-based shopping sites, catalogs, auctions, etc.) for acquisition parameters (e.g., prices, rental amounts, etc.) on one or more commodities for a

predetermined period of time. Specifically, in the present invention, a user utilizes an agent programmed with a search strategy. Once programmed, the agent scans sites and/or a set of other publicly searchable databases to see if an item meeting the user's acquisition parameters is available.

When a determination is made that the item can be purchased at or below a target price, the agent asynchronously notifies the user (e.g., through a pop-up dialog window or an email) of the details regarding where and how the item can be purchased. However, if the predetermined period of time elapses without such a determination being made, the user can then re-enter altered acquisition criteria and begin a new search.

## **6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Appellants request the Board to review the following rejections:

1. Rejection of Claims 1-6 and 8-27 under 35 U.S.C. §103(a) based on U.S. Patent Application No. 2005/0010494 to Mourad et al. in view of U.S. Patent No. 7,107,225 to McClung, III.
2. Rejection of Claim 7 under 35 U.S.C. §103(a) based on U.S. Patent Application No. 2005/0010494 to Mourad et al. in view of U.S. Patent No. 7,107,225 to McClung, III, and further in view of U.S. Patent Application Publication No. 2002/0143655 to Elston et al.

**7. ARGUMENT**

**The Cited Art Does Not Render the Claims Obvious**

The Examiner Has Not Established a *Prima Facie* Case of Obviousness

KSR (*KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007)

requires that an Examiner provide “some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness.” Further, an Examiner must “identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does,” In addition, the Examiner must make “explicit” this rationale of “the apparent reason to combine the known elements in the fashion claimed,” including a detailed explanation of “the effects of demands known to the design community or present in the marketplace” and “the background knowledge possessed by a person having ordinary skill in the art.”

The Examiner has not met these requirements. The present invention, as discussed above, provides an interface for a user to input acquisition parameters to be used in searching for online commodities. Once the acquisition parameters have been set, an agent searches a plurality of public databases of stored information relating to commodities available from numerous online merchants. This searching of multiple online databases is one feature which defines the present invention as non-obvious over the prior art. Specifically, claim 1 recites “monitoring a plurality of publicly-searchable, network-accessible databases”. Each additional independent claim (claims 10 and 19) also includes a form of this limitation. This monitoring of multiple online databases is advantageous over the prior art as no system specific database needs to be

created, since the agent has the capability to search any available public database.

Mourad discloses a system and method for online shopping where a single retailer database is *constructed*. This database contains the information relating to all retailers participating in the system. A user specifies a reference price for an item, and the database is searched. Results are returned to the user showing a comparison of the prices the item is available for from the participating retailers versus the reference price. However, an important and vital feature of the invention of Mourad is the construction and searching of this single database. Unlike the present invention, Mourad is limited to searching only a single, privately constructed database whereas the present invention specifically claims searching multiple public databases. Specifically, the Examiner acknowledges Mourad fails to teach monitoring a plurality of publicly searchable databases and looks to McClung to teach this limitation.

McClung teaches a method for guaranteeing a consumer receives the best price for an item purchase by monitoring the price of the item for a specific period of time and, should the price of the item be reduced, refund the difference between the price paid and the current price of the item to the consumer. McClung teaches monitoring the price of an item at all vendors having the item for sale to determine if the price is reduced. The Examiner is interpreting McClung teaching monitoring all vendors as suggesting a “plurality” feature. The Examiner applies this plurality feature to the disclosure of Mourad, saying it would have been obvious “to modify Mourad to include that publicly-searchable database includes a plurality of publicly searchable databases, as suggested by McClung” (page 4 of the Office Action). Applicants respectfully disagree with the Examiner.

McClung is unconcerned with searching databases, in fact, McClung is completely silent on databases altogether. Nowhere does McClung mention how each of the multiple vendor prices are monitored, whether it is by monitoring a plurality of databases or simply monitoring the vendor's web site for any price changes. It is improper to assume that the monitoring of vendors by McClung includes monitoring a plurality of publicly-searchable databases without any disclosure of databases. All that can be taken from McClung is that McClung monitors the prices of a plurality of vendors. However, McClung does not specify how this monitoring is done. Merely monitoring the prices of multiple vendors, though, is not any different from the system of Mourad. Mourad specifically monitors the prices of a plurality of vendors, however, Mourad requires the individual vendors submit their pricing information to be formatted and this is then stored in a central, single, non-public database for searching. The addition of the teachings of McClung does not modify any feature of Mourad as Mourad already included monitoring multiple vendors. What both Mourad and McClung fail to disclose, though, is monitoring a plurality of public databases. However, monitoring multiple public databases to find a user selected commodity using one or more user selected acquisition parameters is explicitly claimed herein.

As shown in the above arguments, neither Mourad nor McClung, whether considered alone or in combination, teach or reasonably suggest the presently claimed invention. Without such teaching or suggestion, it is improper to reject claims 1-6 and 8-27 under 35 U.S.C. 103 based upon Mourad in view of McClung. Accordingly, the Board is respectfully requested to reconsider and overrule the rejection of claims 1-6 and 8-27.

On page 6 of the final Office Action, the Examiner acknowledges that Mourad in view of McClung fails to teach or reasonably suggest sending an instant message to a user upon the occurrence of one or more acquisition parameters being met. The Examiner relies on Elston to teach this limitation. Elston is concerned with a remote ordering system for users utilizing mobile communication devices. This system, similar to that of Mourad, uses a single private database for storing merchant information. Elston fails to teach or suggest monitoring multiple public databases to find a user selected commodity using one or more user selected acquisition parameters. However, monitoring multiple public databases to find a user selected commodity using one or more user selected acquisition parameters is novel and non-obvious, and is explicitly claimed herein.

As shown in the above arguments, neither Mourad, McClung nor Elston, whether considered alone or in any combination, teach or reasonably suggest the presently claimed invention. Without such teaching or suggestion, it is improper to reject claim 7 under 35 U.S.C. 103 based upon Mourad in view of McClung and further in view of Elston. Accordingly, the Board is respectfully requested to reconsider and overrule the rejection of claim 7.

**8. CONCLUSION**

For the foregoing reasons Appellants respectfully request this Board to overrule the Examiner's rejections and allow Claims 1-27.

Respectfully submitted,

August 6, 2008  
Date

/Mark D. Simpson/  
Mark D. Simpson, Reg. No. 32,942

SAUL EWING LLP  
Centre Square West  
1500 Market Street, 38<sup>th</sup> Floor  
Philadelphia, PA 19102-2189  
Telephone: 215 972 7880  
Facsimile: 215 972 4169  
Email: MSimpson@saul.com

## **CLAIMS APPENDIX**

### **CLAIMS INVOLVED IN THIS APPEAL:**

1. (Previously presented) A computer-implemented method for identifying acquisition parameters for one or more commodities, comprising the steps of:  
identifying said one or more commodities using one or more searchable identification parameters;  
defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored;  
monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters; and  
outputting results of said monitoring step.

2. (Original) The computer-implemented method of claim 1, wherein said one or more publicly-searchable databases includes shop-bot sites.

3. (Original) The computer-implemented method of claim 2, wherein said monitoring duration defining step includes at least the steps of:  
defining an overall duration for conducting said monitoring step; and  
defining a refresh interval for said monitoring step.

4. (Original) The computer-implemented method of claim 3, further comprising the step of:

identifying one or more alarm conditions; and

wherein said monitoring step further comprises at least the step of identifying the occurrence of one or more of said alarm conditions.

5. (Original) The computer-implemented method of claim 4, wherein said outputting step comprises at least the steps of:

sending an email to a user of said method upon the occurrence of one or more of said alarm conditions.

6. (Original) The computer-implemented method of claim 4, wherein said outputting step comprises at least the steps of:

sending an electronic page to a user of said method upon the occurrence of one or more of said alarm conditions.

7. (Original) The computer-implemented method of claim 4, wherein said outputting step comprises at least the steps of:

sending an instant message to a user of said method upon the occurrence of one or more of said alarm conditions.

8. (Original) The computer-implemented method of claim 4, wherein one of said one or more alarm conditions comprises an acquisition parameter reaching a predefined minimum value.

9. (Original) The computer-implemented method of claim 8, wherein said acquisition parameter comprises a sale price.

10. (Previously presented) A computer-implemented system for identifying acquisition parameters for one or more commodities, comprising:

means for identifying said one or more commodities using one or more searchable identification parameters;

means for defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored;

means for monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters; and

means for outputting results of said monitoring step.

11. (Original) The computer-implemented system of claim 10, wherein said one or more publicly-searchable databases includes shop-bot sites.

12. (Original) The computer-implemented system of claim 11, wherein said means for monitoring duration defining includes at least:

means for defining an overall duration for conducting said monitoring step; and  
means for defining a refresh interval for said monitoring step.

13. (Original) The computer-implemented system of claim 12, further comprising:

means for identifying one or more alarm conditions; and  
wherein said means for monitoring further comprises at least means for identifying the occurrence of one or more of said alarm conditions.

14. (Original) The computer-implemented system of claim 13, wherein said means for outputting comprises at least:

means for sending an email to a user of said method upon the occurrence of one or more of said alarm conditions.

15. (Original) The computer-implemented system of claim 13, wherein said means for outputting comprises at least:

means for sending an electronic page to a user of said method upon the occurrence of one or more of said alarm conditions.

16. (Original) The computer-implemented system of claim 13, wherein said means for outputting comprises at least:

means for sending an instant message to a user of said method upon the occurrence of one or more of said alarm conditions.

17. (Original) The computer-implemented system of claim 13, wherein one of said one or more alarm conditions comprises an acquisition parameter reaching a predefined minimum value.

18. (Original) The computer-implemented system of claim 17, wherein said acquisition parameter comprises a sale price.

19. (Previously presented) A computer program product for identifying acquisition parameters for one or more commodities, the computer program product comprising a computer-readable storage medium having computer-readable program code embodied in the medium, the computer-readable program code comprising:

computer-readable program code that identifies said one or more commodities using one or more searchable identification parameters;

computer-readable program code that defines a monitoring duration during which acquisition parameters for said one or more commodities will be monitored;

computer-readable program code that monitors a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters; and  
computer-readable program code that outputs results of said monitoring step.

20. (Original) The computer program product of claim 19, wherein said one or more publicly-searchable databases includes shop-bot sites.

21. (Original) The computer program product of claim 20, wherein said computer-readable program code that monitors duration defining includes at least:  
computer-readable program code that defines an overall duration for conducting said monitoring step; and  
computer-readable program code that defines a refresh interval for said monitoring step.

22. (Original) The computer program product of claim 21, further comprising:  
computer-readable program code that identifies one or more alarm conditions; and  
wherein said computer-readable program code that monitors further comprises at least computer-readable program code that identifies the occurrence of one or more of said alarm conditions.

23. (Original) The computer program product of claim 22, wherein said computer-readable program code that outputs comprises at least:

computer-readable program code that sends an email to a user of said method upon the occurrence of one or more of said alarm conditions.

24. (Original) The computer program product of claim 22, wherein said computer-readable program code that outputs comprises at least:

computer-readable program code that sends an electronic page to a user of said method upon the occurrence of one or more of said alarm conditions.

25. (Original) The computer program product of claim 22, wherein said computer-readable program code that outputs comprises at least:

computer-readable program code that sends an instant message to a user of said method upon the occurrence of one or more of said alarm conditions.

26. (Original) The computer program product of claim 22, wherein one of said one or more alarm conditions comprises an acquisition parameter reaching a predefined minimum value.

27. (Original) The computer program product of claim 26, wherein said acquisition parameter comprises a sale price.

**EVIDENCE APPENDIX**

No additional evidence is presented.

**RELATED PROCEEDINGS APPENDIX**

No related proceedings are presented.